

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10777 of 2016

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Dr. Prabhat Kumar Yadav, Son of Sri Ram Lakhan Lal Yadav, Resident of
Mohalla- New Road Chowk, Patna City, P.O. + P.S. - City Chowk, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Joint Secretary, Department of Education, Government of Bihar, Patna.
4. Lalit Narayan Mishra Institute of Economic Development and Social Change, Patna through its Officiating Registrar, Lalit Narayan Mishra Institute of Economic Development and Social Change.
5. The Incharge Registrar, Lalit Narayan Mishra Institute of Economic Development and Social Change, Patna.
6. Sri K. Santhal Kumar, s/o name now known, Addl. Secretary, Department of Education, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siya Ram Shashi, Advocate
Ms. Shally Kumari, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-12-2016

Heard Mr. Siya Ram Shahi, learned counsel appearing on behalf of the petitioner. None appears on behalf of the State.

This matter was heard on 28.10.2016 when time was granted to the counsel for the State as well as the University to seek instruction and file counter affidavit but when the matter is taken up today neither there is any counter affidavit nor there is any representation on behalf of the respondents. The matter is thus taken up for consideration on merits.

Mr. Shahi, learned counsel appearing for the petitioner with reference to the suspension order bearing Memo No.712 dated 31.05.2016 impugned at Annexure-7 makes a very brief submission. He submits that the suspension order is not in accordance with rule 9 of the



Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the ‘Rules’) inasmuch as on a mere allegation of indiscipline that the order of suspension has been passed without any stipulation regarding pending disciplinary proceeding or a disciplinary proceeding contemplated.

The submission made by Mr. Shahi is confirmed from the order of suspension inasmuch as neither does the order impugned mentions any contemplation of a disciplinary proceeding nor is it passed in a pending proceeding or whether any criminal case is instituted or there is a security threat. An order of suspension under rule 9 of ‘the Rules’ is not a routine exercise rather there are pre-requisite provided under rule 9 of ‘the Rules’ for such exercise. In so far as the case in hand is concerned, the order of suspension does not make any reference to any of the circumstances mentioned in rule 9 of ‘the Rules’ for its support.

In the circumstances discussed above, the order of suspension bearing Memo No.712 dated 31.5.2016 impugned at Annexure-7 is unsustainable and is accordingly quashed and set aside.

The writ petition is allowed. . .

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA

